

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LINDA SPRINGS,

Plaintiff

v.

C-1-10-213

CINCINNATI CHILDREN'S
HOSPITAL MEDICAL CENTER,
et al.,

Defendants

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 27), plaintiff's objections thereto (doc. no. 31) and defendant's response (doc. no. 32). The Magistrate Judge concluded that plaintiff has failed to state a claim for relief against the individual defendants under Title VII and under 42 U.S.C. § 1983. Accordingly, the individual defendants cannot be held personally liable.

Plaintiff filed her Complaint in this case on April 9, 2010. An Answer was filed on August 5, 2010. The Motion to Dismiss was filed August 6, 2010. Plaintiff failed to respond to the Motion to Dismiss until she was ordered to show cause on September 8, 2010. Plaintiff responded to the Order to Show Cause and to the Motion to Dismiss on September 28, 2010, in which plaintiff states "The individual defendants are all employees of the Cincinnati Children's Hospital and as such are subject to liability under Title VII of the Civil Rights Act of 1964 (Title VII) and 42 U.S.C. § 1983." (doc. no. 21). On January 20, 2011, the Magistrate Judge issued the Report and Recommendation recommending the plaintiff has not stated a claim for relief against the individual defendants under Title VII or under 42 U.S.C. § 1983. The Magistrate Judge therefore recommended that the Motion to Dismiss filed by defendants Alan Henry, Ann Marie Jenkins and Erin Gordon (doc. no. 18) be granted.

On February 15, 2011, plaintiff filed a Motion for Extension of Time to File Response to the Report and Recommendation (doc. no. 29). On February 16, 2011, the Court granted the request ordering the response due by March 10, 2011 (doc. no. 30). On March 10, 2011, plaintiff filed a

Memorandum in Support of Objections to Motion to Dismiss Defendants' Ann Marie Jenkins, Erinn (sic) Gordon and Alan Henry (doc. no. 31).

Plaintiff states in her objections, "Plaintiff amends this action to include 42 U.S.C. § 1981 and the U.S. Constitution 14th Amendment (1), due process." *Id.* page 5. As noted above, a responsive pleading has been filed in this case; therefore, to amend the Complaint, plaintiff must comply with Rule 7 and Rule 15 (a)(2) of the Federal Rules of Civil Procedure before the Court will consider this claim.

Upon a *de novo* review of the record, especially in light of plaintiff's objections, the Court finds that plaintiff's objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge.

Accordingly, the Court hereby ADOPTS the Report and Recommendation of the United States Magistrate Judge (doc. no. 27). The Motion to Dismiss filed by defendants Alan Henry, Ann Marie Jenkins and Erin Gordon (doc. no. 18) is GRANTED.

This case is RECOMMITTED to the United States Magistrate Judge for further proceedings according to law.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court